



## MINUTES

**City of Scottsdale Judicial Appointments Advisory Board  
Regular Meeting  
7:30 a.m., Saturday, September 24, 2011  
Human Resources Pinnacle Training Room  
7575 E. Main Street**

**PRESENT\*:** Paul Rybarsyk, Chair  
Donald Alvarez, Vice Chair  
Judge Bruce Cohen, Board Member  
Dr. Ira Ehrlich, Board Member  
Francis Scanlon, Board Member  
Kenneth Weingarten, Board Member

**\*Note:** The board member seat filled by an appointee of the Chief Justice of the AZ Supreme Court is vacant and is in the process of being filled.

**STAFF:** Valerie Wegner  
Judy Dewey  
Sherry Scott  
Bernadette LaMazza  
Terry Welker

**OTHERS:** Janet Cornell

### **CALL TO ORDER**

The meeting was called to order at 7:33 a.m.

### **ROLL CALL**

A formal roll call confirmed the presence of a quorum as noted above.

#### **1. APPROVAL OF MINUTES OF PUBLIC MEETING CONDUCTED ON AUGUST 25, 2011**

**BOARD MEMBER EHRLICH MOVED TO APPROVE THE MINUTES OF AUGUST 25, 2011 PUBLIC MEETING. VICE CHAIR ALVAREZ SECONDED. THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0).**

## **2. PUBLIC COMMENT**

Janet Cornell, City of Scottsdale Court Administrator, did not endorse a particular candidate, but asked that the Board consider the tasks that a Presiding Judge is responsible for when determining the applicants to move forward for interviews with City Council. They must be good at caseload management, be able to withstand critical reactions to their decisions, manage budgets, and allocate human resources. They must have high ethical practices and standards. The Court relies on the Presiding Judge to set a vision and make decisions, so it is important that they have prior experience as a judge. A person both new to judging and to administrative tasks would require a significant adjustment period.

She encouraged JAAB to consider candidates with direct prior judicial experience in a comparably sized city court. Because the Presiding Judge must handle judicial and administrative roles, they should possess copious energy, the ability to understand and comply with sometimes competing directives, and be dedicated to the justice system. The candidate should not have conflicts of interest from prior work, other events, or from personal affiliations. It is important that the Presiding Judge be able to assume their new position with as little disruption to the Court process and case conclusions as possible.

## **3. DISCUSSION OF REFERENCE CHECK RESULTS FOR THE SIX CANDIDATES BEING CONSIDERED FOR PRESIDING CITY JUDGE INTERVIEWS WITH CITY COUNCIL**

Vice Chair Alvarez said he was responsible for checking references for Caron Close. He shared that in addition to the references listed on Ms. Close's application, he spoke with several other professionals who have interacted with her in the courtroom. Ms. Close was described as decisive, knowledgeable, respectful, thorough, effective, tough, bright, goal-oriented, organized, well-spoken, efficient, a hard worker, a quick study, and dependable. Vice Chair Alvarez also mentioned that he had received confidential information that would need to be shared in executive session.

Board Member Cohen said he discussed Nancy Sorensen with several people. None of them had anything negative thing to say about her. One respondent gave her the highest possible regard, saying she was friendly but professional, had great administrative skills, and would make a perfect candidate. Another described her as being honest to a fault. A third respondent said that Nancy Sorenson once took over a mess of a case when she was a magistrate in Michigan. Almost every other attorney involved in the case eventually got disbarred, and she was the only one on her side who was considered to have behaved in a truly professional manner. He noted that three of the people he spoke to were opposing attorneys.

Board Member Weingarten looked into references on Judge Jejna, who was recently reappointed as associate judge. He concentrated on getting opinions from the other presiding judges in the Valley, and all of them said his skill is second to none. He is described as being thorough in his administration, he has a strong character, never shows temperament, is a family man, is always prepared, is smart and well prepared. Judge Jejna can weather a political tide, can be patient, wise and can ensure a smooth transition. All five of the presiding judges he spoke to recommended him for the position in Scottsdale. Administrative employees describe him as easy to work with, possesses the energy to do the task, openly expresses his views, and they highly recommend him

for the position. He stated that he had additional comments to make in executive session.

Board Member Scanlon reported on his findings on Judge Olcavage, who was also recently reappointed. He focused on asking questions about his organizational skills. Everybody he spoke to loves Judge Olcavage. They said it would be an easy job for him because he runs his calendar so well. He works well with the staff members, and has an open door policy with everyone. One respondent said that Judge Olcavage is head and shoulders above the other candidates. He has a great ability to get along with both sides of a case.

Board Member Ehrlich conducted due diligence on Judge John Lamb, who is a judge of the Superior Court of Navajo County. He asked why Judge Lamb was willing to leave Holbrook after being there for 26 years. Most respondents countered by asking why he stayed there as long as he has. Judge Lamb is very well educated, having studied at Stanford, University of Texas, and Northwestern. He is committed to researching issues. Nobody has bothered to run against him in recent elections. He is described as hard-working, diligent, thoughtful, calm, respectful, dedicated, and absolutely not arrogant about his position. Comments came in from prosecution, defense, and employees. He suggested asking of Judge Lamb why he would be willing to move from a superior court position to a city court judge. He found nothing in his research that would be seen as negative in any sense.

Chair Rybarsyk said he conducted interviews regarding Karl Eppich, who is a City of Mesa Court Judge. He has a law degree from Stanford, and is the President of the Arizona Magistrates Association. Respondents he spoke to described Judge Eppich as being a hard worker, a good educator of judges; he possesses unsurpassed legal skills, is cooperative, extremely bright, has a good demeanor, and would absolutely make an outstanding Presiding Judge. He takes the job seriously and views it as a public service. When asked about Judge Eppich's reasons for leaving the Mesa Court, one respondent said it is because he wants to be a leader. One attorney stated that even though Judge Eppich has ruled against her on occasion, his rulings are always fair, and his temperament is great. Chair Rybarsyk said everything he heard about him was extremely positive.

**4. DISCUSSION OF CONFIDENTIAL INFORMATION, IF ANY, RELATED TO THE QUALIFICATIONS OF THE PRESIDING CITY JUDGE CANDIDATES DURING AN EXECUTIVE SESSION**

**VICE CHAIR ALVAREZ MOVED TO ENTER INTO EXECUTIVE SESSION. BOARD MEMBER WEINGARTEN SECONDED. THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0).**

The executive session lasted from 8:04 a.m. to 8:38 a.m.

**5. DISCUSS QUESTIONS AND PROCESS FOR PRESIDING CITY JUDGE INTERVIEWS**

The Board reviewed the set of questions for the formal interviews. Chair Rybarsyk said that in fairness, all candidates should be asked the same set of questions. Each

candidate would be interviewed for up to 45 minutes. Following the set of standard questions, each Board Member could ask an additional question.

Board Member Ehrlich inquired whether candidates could ask questions of the board. Chair Rybarsyk responded that they should be allowed to ask for clarification. He reminded the Board that they cannot probe into personal issues such as their marital status, nationality, religion, etc. Questions should focus solely on their abilities, experiences, and on general inquiries regarding complaints made against them.

Valerie Wegner stated that once the interviews were finished, each Board Member would rank order each of the six candidates prior to beginning discussions. City Council will be made aware of the Board's rankings. Sherry Scott added that the Board's notes would also be public record. Ms. Wegner said it would be acceptable to ask probing questions based on how candidates responded to the standard questions.

## **6. PRESIDING CITY JUDGE INTERVIEWS**

**Nancy Sorensen**, Staff Attorney - City of Mesa Police Department

### ***What do you see as the role of the Presiding Judge?***

Ms. Sorensen said a Presiding Judge is a leader of the courthouse, a leader in the community, and serves as a bridge between the City and the court system.

### ***What knowledge, skills, and abilities do you think are important to a Presiding Judge?***

Ms. Sorensen stated that they should possess respect for the individuals they work with, and the culture of the work environment. They should not be quick to change everything before understanding the situation. Patience and kindness are extremely important. She has seen many different leadership styles and these qualities are shared by the best. She identified knowledge of the profession, court proceedings, legal knowledge, case management, cost reduction skills, and organizational plans as key qualities for a Presiding Judge. When she was in Detroit in 2005, her department had to severely cut back on personnel while maintaining the same heavy caseload.

### ***How can the cost of judicial administration be reduced? As a supervisor, have you had any experience in reducing costs and in creating a budget?***

Ms. Sorensen responded that she has never created a budget, but in each cost cutting initiative, she was told the number of people she had to work with and had to find a way to make it work. It is a very difficult process, since each cut is a cut in service to the community. If she was required to reduce costs in a courthouse, she would talk to each of the employees first to get their input on the best way to implement reductions.

### ***Have you ever thought about a decision on a case and wished you had handled it differently?***

Ms. Sorensen said when she was first appointed as a magistrate in Michigan, she was advised not to second-guess her decisions. She did, however, change a decision in one case, though she was unable to recall the specifics.

### ***Describe a situation in which you made an unpopular decision that angered and offended others, and how you dealt with that?***

Ms. Sorensen gave an account of an incident where a homeowner shot a process server who came to his house. She released him after he posted bond, and the community was outraged. She stated that she did not respond to media requests, but stuck by her decision. As a managing attorney in Detroit, she moved forward on a case involving a controversial art installation that pitted the artist against residents. The city eventually took down the installation.

Ms. Sorensen said she was the managing attorney in several police misconduct issues. In one case, 17 Detroit police officers were indicted by the federal government for civil rights violations. Eight went to trial and they were all acquitted. She later determined that three of those officers should be terminated, which was not a popular decision within the department, though the community was pleased. She was assigned a case when a police officer started a website to disparage the Detroit PD and its chief. It was filled with rumors and innuendos, but also revealed confidential information about mobility forces. The officer later sued for wrongful termination and for violating the public employees' law. The case was controversial because many officers saw the man as their hero. The civil litigation case prevailed in the Court of Appeals, but the Michigan Employment Relations Commission decided that some of the web activity was actually protected.

***Could you describe your experiences working with other associate judges, and in particular court administrators?***

Ms. Sorensen explained that she served as a magistrate at the Michigan 48<sup>th</sup> District Court from 1986 to 1994, and prior to that she was the law clerk for the Chief Judge. She has experience interacting with judges on different levels. Before computer technology became commonplace, staff had to be very organized and work closely with each other to manage caseloads. The 48<sup>th</sup> District Court is similar to Scottsdale in size and character, but the 36<sup>th</sup> District Court, where she later worked, is much larger and more urban in nature. When she first arrived, it was severely understaffed and the situation was in chaos. She worked closely with the court administrators to organize the caseload there.

***Do you foresee any potential conflicts of interest that you might have from prior employment?***

Ms. Sorensen responded that she cannot foresee any problems. If she were to encounter a conflict, depending on its nature, she would either recuse herself or offer full disclosure. She once had to file a disciplinary grievance against an attorney who was eventually disbarred for engaging in egregious conduct that jeopardized the City of Detroit. She does not recall ever having to recuse herself as a magistrate, however, though she would have if necessary.

Board Member Weingarten inquired about the transition from a staff attorney to a presiding judge. Ms. Sorensen explained that she left her magistrate position in Michigan because she felt it was important to get litigation experience. It would not be difficult to transition to a judge, because she has been one before. The additional litigation experience she has acquired will make her a better judge. She is used to working with city leaders in Mesa, and making the transition to a leadership position as a presiding judge would not be difficult.

Chair Rybarsyk asked how she would handle complaints from the Police Department. Ms. Sorensen responded that it depends on the nature of the complaint. A demeanor

complaint has to be handled directly with the subject of the complaint. If someone disagrees with a judge's decision, they have to be made aware that they have rights. Chair Rybarsyk noted that in Scottsdale's court, the state's witness is more than likely going to be a police officer. He inquired whether Ms. Sorensen's experience with police officers would create favorable bias. Ms. Sorensen responded that she would be completely unbiased, having no preconceived notions that a police officer is always correct. She makes decisions based on the facts presented.

Board Member Cohen asked about coming into leadership positions above people who have long been established in their roles. Ms. Sorensen explained that she assimilates very well. When she came to Mesa, everyone was kind, and the transition was smooth. Issues faced by large metropolitan areas are essentially the same everywhere. She works hard to form strong bonds with coworkers. She noted that her family has lived in the East Valley for nearly 20 years. She does not anticipate that the transition to Scottsdale would be more difficult than the transition to the 36<sup>th</sup> District Court in Detroit.

Chair Rybarsyk inquired how she would react if asked by City Council to make budget cuts that would impair the Court's ability to properly serve the public. Ms. Sorensen responded that she would discuss the issue with the City Council after thoroughly examining the situation and gaining an understanding of how it would impact the administration of justice.

**Judge Orest Jejna, Associate City Judge - City of Scottsdale**

***What do you see as the role of the Presiding Judge?***

Judge Jejna saw the transition from Associate Judge as a small one. Interaction with staff will increase. The Presiding Judge serves as a bridge between City Council and the Court.

***What knowledge, skills, and abilities do you think are important to the Presiding Judge?***

Judge Jejna said communication and interpersonal skills are the most important skills for good leadership.

***How can the cost of judicial administration be reduced? As a supervisor, have you had any experience in reducing costs and in creating a budget?***

Judge Jejna explained that he created budgets for his private practice, and in several business ventures. In the Scottsdale Court, he helped save money by ensuring that individuals who were coming in on warrants were dealt with by the prosecutors in the same day. Prior to that change, cases were either not getting disposed of, or they would remain in the jail adding to the City's cost. This change also increased the efficiency of the Court.

***Have you ever thought about a decision on a case and wished you had handled it differently?***

Judge Jejna responded that judges second-guess themselves all the time and this is a healthy process. One time in a DUI case, the defense urged him to proceed with a submission, and the state objected. He overruled the objection, and took the submission. The decision later bothered him and he informed the counsels that he felt the state should file a motion for reconsideration. Ultimately, they did so, and three weeks later both parties came up with a satisfactory resolution.

***Describe a situation in which you made an unpopular decision that angered and offended others, and how you dealt with that?***

Judge Jejna said that in litigation, one party is always unhappy. One man had to serve 165 days of home detention. After serving 126 days successfully, the individual came up with a potential violation. The state wanted the person detained, but he opted to grant the individual his due process, since he believes that it is an important part of the Constitution. The individual remained on home detention throughout the process, and eventually gained enough days to complete the 165 days sentence. Due process is a basic tenet, and he would not go against it, even if it angers people as a result. Both sides should have their day in Court.

***Could you describe your experiences working with other associate judges, and in particular court administrators?***

Judge Jejna said he would make himself available to the Court Administrator, and has in the past whenever questions arise.

***Do you foresee any potential conflicts of interest that you might have from prior employment?***

Judge Jejna said he does not foresee any conflicts. After years as an Associate Judge, all potential conflicts have been resolved. He reaches out to both sides equally, and is concerned about maintaining integrity. The community wants judges to be compassionate and balanced.

Chair Rybarsyk inquired whether Judge Jejna was ever involved in Court budget decisions. Judge Jejna said he could not recall being asked for input on a specific budgetary issue. Typically they have been handled by the Court Administrator and Judge Morgan. Chair Rybarsyk asked whether he would foresee any problems in relating to staff as a Presiding Judge after having worked with them in the capacity of an Associate Judge. Judge Jejna said that the staff is generously considerate of his feelings, and are receptive to him becoming their chief. They are familiar with his personality already. Managers have to make difficult decisions. He generally does not socialize with court staff after hours.

Vice Chair Alvarez asked about new policies and procedures that he would implement as Presiding Judge. Judge Jejna stated that the Court currently has several ongoing priority projects under review, including an effort regarding the Homeless Court, reevaluating the DUI Court, and reevaluating the domestic violence procedures. He would support continuing the effort to have those programs fully vested. He would review policies regarding customer service and IT issues, and be open to staff and City Council suggestions for ways to improve the way things are done at the Court. Scottsdale has a high performance court that adheres to national standards. It would be premature to change things immediately, without understanding why they are done the way they are.

Judge Jejna said the Jail Court has to handle certain individuals quite frequently. They place a burden on the system and the community. Typically they are homeless and/or have mental health issues. They rarely have anyone they can turn to for guidance. The Homeless Court can address those who simply need help getting back on their feet, but many have chronic issues that are not easily addressed. This is both a social problem, and a monetary problem. He would like to study the issue further to see if their needs could be better addressed, and he would like to cut the cost to the City. In general, the

policies at the Court work well. As an Associate Judge, he is able to exercise true discretion.

Chair Rybarsyk inquired about what Judge Jejna would do if City Council asked him to reduce the budget to the point where it would affect the orderly administration of justice. Judge Jejna said he expects that such a scenario is likely, given the current economy. He would consult staff to get their input on whether the budget was as efficient as it possibly could be. If nothing further can be cut, he would lobby the City Council and Mayor, and give them the complete picture of the situation. Increased communication is important, and he feels he has tools necessary for that job.

Board Member Ehrlich inquired whether Judge Jejna's relationship with the other Associate Judges would be an advantage or a disadvantage. Judge Jejna said he does not anticipate a problem. The judges work well as a team, and they understand each other's nuances. There has never been discourse between the judges.

**Judge Karl Eppich, Municipal Court Judge - City of Mesa**

***What do you see as the role of the Presiding Judge?***

Judge Eppich said he would be responsible for the overall operation of the court, both the administrative and judicial functions. The determination of individual cases are retained by Associate Judges, but he would see that the Court overall is operating in accordance with its Constitutional obligations. He would ensure that the Court is meeting its objective of dispensing justice in a fair, impartial, and efficient manner that inspires public confidence.

***What knowledge, skills, and abilities do you think are important to the Presiding Judge?***

Judge Eppich responded that the Presiding Judge must have all the same skills that the Associate Judges have. They should be able to communicate effectively, get along with people, and view things based on evidence and persuasive arguments. Much of what the courts can do administratively is controlled by the Constitution and by statutes and ordinances. Beyond that there is the opportunity to use discretion, and this requires sound judgment. He has a good feel for what is working and not working around the state, and can apply this knowledge to Scottsdale's Court. While he has not prepared a budget for a large organization, he would rely on staff to help him through the intricacies of the process.

***How can the cost of judicial administration be reduced? As a supervisor, have you had any experience in reducing costs and in creating a budget?***

Judge Eppich said that in Mesa, budget issues come up frequently in judges' meetings. In terms of cost savings, no area should be off limits from consideration. Cuts do not always have to be dramatic; they can come from many small reductions. Technology costs money up front, but can save much in the long run. Mesa no longer issues warrants for failure to pay fines outside of restitution cases, and puts a greater emphasis on collections now. Custodial costs went down significantly by having court employees empty their own trash.

***Have you ever thought about a decision on a case and wished you had handled it differently?***



Judge Eppich said all judges have probably felt they could have explained the reasons for their decisions more clearly at times. Clear explanations help build confidence in the court, and even those on the losing end are more likely to respect the decision. It also helps the appellate court if the explanation is clear.

***Describe a situation in which you made an unpopular decision that angered and offended others, and how you dealt with that?***

Judge Eppich said a clear explanation helps avoid that kind of situation. One young man who was found guilty of threatening a police officer reacted quite badly to the decision. As judge, he de-escalated the situation by calmly explaining his decision and offering him an opportunity to make an apology. In cases where the hostility is high, it is sometimes better to let the situation diffuse itself before issuing a written ruling later.

***Do you foresee any potential conflicts of interest that you might have from prior employment?***

Judge Eppich stated that he has no conflicts of interest, since he has been a judge for so long.

Chair Rybarsyk inquired whether the transition from an Associate Judge to a Presiding Judge would create problems. Judge Eppich explained that he does not have a dictatorial personality. His approach is to be collaborative and to get input from those who might be affected by policy changes. It is not his role to decide cases for the Associate Judges. He knows and likes all the judges in Scottsdale and does not see any personality issues.

Chair Rybarsyk inquired what Judge Eppich would do if City Council asked him to make budget cuts that would affect the administration of justice. Judge Eppich said he would sit down with City Council to provide a well-reasoned explanation as to why the cuts would impair the court's ability to fairly and impartially adjudicate cases. He would try to persuade them to find another solution. Mesa's court budget has been cut down to the bone, and they have had to find legitimately available revenue sources. He believes that reasonable people can arrive at consensus without having to resort to a struggle, which should be avoided at all costs.

Vice Chair Alvarez asked about Judge Eppich's familiarity with the Scottsdale Court. Judge Eppich said he is not familiar with specifics. Municipal courts tend to operate similarly, since they all have to answer to the Supreme Court. His ability to come into Scottsdale with no preconceived notions would allow him to see how things operate before making any changes. Vice Chair Alvarez inquired about policies and procedures that Judge Eppich would like to see implemented. Judge Eppich responded that Scottsdale uses home detention like Mesa does, and he has reservations about the policy. It does not seem terribly punitive, but the city saves on jail costs. He would look into its overall effectiveness, especially to see whether the cost to operate the program is worth it. He would also look into calendar management to see if it is working well for Scottsdale.

Board Member Ehrlich noted that in the past, City Council has required that Scottsdale judges live within Scottsdale. He inquired whether Judge Eppich would resign if that requirement was imposed. Judge Eppich explained that he is willing to move but is simply unable to, since he bought his current house in the spring of 2007. If he is

offered the position, he would assume that it is with the understanding that he would not be asked to move.

**Judge John Lamb, Superior Court Judge - Navajo County**

***What do you see as the role of the Presiding Judge?***

Judge Lamb responded that ultimate decisions belong to the Presiding Judge, but they should get input from staff, especially the Court Administrator. Presiding Judges ensure that the Court runs efficiently, while allowing citizens to feel as though they had their day in court. They have to balance administrative and judicial roles.

***What knowledge, skills, and abilities do you think are important to the Presiding Judge?***

Judge Lamb said he has long observed human nature and has learned from other presiding judges. In the Scottsdale City Court, he would take small steps, rather than making many changes at once. Some presiding judges do not want to make decisions out of fear of offending one side or the other. He developed his own leadership traits by emphasizing people skills. He enjoys taking input from many different people, and helps employees feel as though their input makes a difference.

***How can the cost of judicial administration be reduced? As a supervisor, have you had any experience in reducing costs and in creating a budget?***

Judge Lamb explained that he would talk to presiding judges at other courts about ways they have found to cut costs. He would talk to every employee in the court system to get their ideas. In the Superior Court, he saved money by sending people to DOC right away, rather than sending them to jail for 30 days as they waited for their pre-sentence report. He discovered that there was no rule requiring a pre-sentence report, it was just done that way by tradition. There are always sensible ways to save money.

***Have you ever thought about a decision on a case and wished you had handled it differently?***

Judge Lamb stated that he changed his decision only one time. It was a case involving a woman who used drugs but had suffered from severe abuse. He only was overturned twice on appeals in 17 years: one decision he disagreed with, and the other he agreed, based on a change in the law that came after his decision. He does not agonize over decisions once he makes them, since he takes the time to carefully consider everything before making a decision.

***Describe a situation in which you made an unpopular decision that angered and offended others, and how you dealt with that?***

Judge Lamb said he has made decisions where the entire court room wanted one result and he decided the opposite. He opts for what he thinks is right, and tries to explain himself and his ruling. It is normal for Superior Court judges to be appealed on every trial; that is not the case in the lower courts.

***Do you foresee any potential conflicts of interest that you might have from prior employment?***

Judge Lamb stated that he saw no conflict of interest. He has an advantage coming from outside the community, since he knows nobody in the area.

Chair Rybarsyk inquired about having to create a budget. Judge Lamb said he created budgets for the City Court and Justice Court. He also started his own business, growing it from a one-person firm to a 100-person firm in three states. As a City Councilman in Holbrook, he formulated the City's budget.

Chair Rybarsyk queried what Judge Lamb would do if City Council asked him to cut the Court budget enough that it would affect the orderly administration of justice. Judge Lamb responded that he would first try to find out why City Council was proposing the cuts. Each situation is different. He likes to work with the other branches to find an acceptable solution. He has learned that it is counterproductive to take a hard-line stance on every issue. It is wiser to pick out the important battles. He prefers compromise over fighting.

Chair Rybarsyk asked about Judge Lamb's primary motivation in wanting to move from Holbrook to Scottsdale. Judge Lamb said he loves his current job, but he sees the Scottsdale Presiding Judge job as the number one job in the Arizona judiciary. He feels that his skill set is a perfect fit for the job. He would not leave his current position for any other job. He did not apply to a Court of Appeals position that recently opened, but he feels he is better suited for this job anyway. The Presiding Judge job would allow him to handle trials while still leading an organization. He would welcome a change in culture as well.

In response to an inquiry from Vice Chair Alvarez, Judge Lamb said he handled 7,000 cases last year as a limited jurisdiction court judge, the most of any in the county. Vice Chair Alvarez asked how he would adjust his workload to handle the 12,000 cases that the average Scottsdale judge handles. Judge Lamb said as a Superior Court judge, he has to deal with a lot more motions. The last civil case that went to trial produced 40 motions, but he was never overturned. He has always worked hard, and sees no problem handling the caseload. Vice Chair Alvarez inquired about the policies and procedures that Judge Lamb might want to install as Presiding Judge. Judge Lamb explained that he learns more from the regular employees than he does from the supervisors. He would take time to become knowledgeable and comfortable with the situation before proposing any specific changes. He does not like to waste money, especially money that belongs to the public, and is sure he could find cost savings, as he has done so in every other court.

Board Member Ehrlich inquired about the challenges of going from a Superior Court position to a City Court position. Judge Lamb said he saw no problems. A judge who takes their job seriously approaches it the same way regardless of the level. The people who appear before a judge expect their issue to be treated with as much importance as any other. The judge has to respect that. Every judicial position presents challenges.

**Caron Close**, City Prosecutor - City of Scottsdale

***What do you see as the role of the Presiding Judge?***

Ms. Close said the Presiding Judge in Scottsdale has a judicial aspect and an administrative aspect. They have to be able to both run a courtroom and be in charge of making policy and budgetary decisions for the department.

***What knowledge, skills, and abilities do you think are important to the Presiding Judge?***

Ms. Close responded that she has demonstrated the necessary skills as the City Prosecutor. It requires the ability to organize and run an office, make policies, and give direction on how to best implement them. She said that as a leader she is compassionate with employees. She is a very hands-on boss, and understands what each person on her staff does. The Presiding Judge has to understand the courthouse and what every employee does.

***How can the cost of judicial administration be reduced? As a supervisor, have you had any experience in reducing costs and in creating a budget?***

Ms. Close responded that every year, as City Prosecutor she works on the budget for her office and the budget for the Victim Services Division. The last few years have required budget reductions, and she has had to find ways to compress staff and be more efficient. Part of the solution was to streamline processes by using technology. Even in strong economic times, it is important to spend money wisely.

***Have you ever thought about a decision on a case and wished you had handled it differently?***

Ms. Close stated that everyone looks back and wishes they had done some things differently. She takes time to process information before making decisions. When leaving the courtroom, she is confident that she has done her best, because she took the time beforehand to prepare.

***Describe a situation in which you made an unpopular decision that angered and offended others, and how you dealt with that?***

Ms. Close explained that as an administrator, she makes personnel decisions. One of her goals was to reduce turnover, which was high when she started, but today there is very little. The downside is that there is very little movement within the office. When positions open, it is important to reward people who have stayed with the department by letting them move up. She once promoted an employee who lacked seniority, and even though it was an unpopular decision at the time, it has proven sound over time.

***Do you foresee any potential conflicts of interest that you might have from prior employment?***

Ms. Close stated that she has looked into the Judicial Code of Conduct. There is specific language about government employees. Last year, her office dealt with 18,000 cases, and cases move through the system very quickly. Some cases she has substantial knowledge of, will inevitably come before her as a judge, and she has to be prepared to move aside when they do. After about six months, those cases will have worked through the system, and this would no longer be an issue. On a personal level, she does work with prosecutors. The criminal field of lawyers is very small. She knows the defense attorneys also. She understands her role, even as it changes, and would take the role of judge seriously.

Vice Chair Alvarez inquired whether Ms. Close perceived any conflict with any of the prosecutors she has supervised. Ms. Close said the rules of conduct do not prohibit that. From a personal standpoint, she would be going from one leadership role to another. Those she has worked with know how fair she can be. They know that she is going to do the right thing, even if it means deciding against someone she knows and likes as a person. Vice Chair Alvarez asked whether Ms. Close would feel the need to recuse herself from cases that involved former coworkers, the way judges in civil cases do. Ms. Close explained that the rules explain the differences between government

employees, and persons of private practice who are prohibited from judging over former partners for a period of four years. Because there are so many employees in a public defenders or prosecutors office, it would be very difficult to not ever have a previous associate appear before them.

Chair Rybarsyk noted that even if she did not preside over a particular case, a defendant could see that their former prosecutor was now the Presiding Judge over the Court, and that this could appear improper to them. Ms. Close responded that all judges would need to be cognizant of the situation. Currently in her office, certain prosecutors are walled off from particular cases if it would appear inappropriate. The law allows for this to happen, and the bench certainly would have the ability to keep her away from the case.

Chair Rybarsyk inquired about Ms. Close's relationship with the police officers who are most often the witnesses that appear for the state. Ms. Close said that as prosecutor, she does not consider police officers to be her clients. If she was to recuse herself from a case, it would have to be a very unusual situation. She has a longstanding professional relationship with the Scottsdale PD, but no personal relationships. As a prosecutor, she has dismissed legally insufficient cases, even though the officers wished she had not done so.

Chair Rybarsyk asked about the budget process between City Council and the City Prosecutor's Office. Ms. Close explained that when City Council requested budget cuts, the heads of the City Attorney's Office examined the work flow to identify ways to reduce costs. Some people voluntarily left through retirement, but enough remained to require tough decisions. Some of the budgeting decisions made by Council included the entire Victim Services Division. She had the opportunity to explain what the Division brought to the citizens of Scottsdale, and gave them the information they needed to make their decisions.

Board Member Cohen said he understood the ability of judges to quickly be able to shed their advocacy once they take the bench. He noted, however, that the Code of Conduct also talks about the appearance of impropriety. He inquired about situations where a defendant could see that Ms. Close, their former prosecutor, was now Judge Close presiding over their case. Ms. Close explained that such situations would only occur over a certain time frame. The most important thing is that litigants truly believe that they have an impartial judge sitting in front of them. At times she would have to step away from a case, because of the appearance of impropriety.

Chair Rybarsyk asked how Ms. Close would handle a request from City Council to cut the Court budget down to the point where it would hinder its ability to dispense justice. Ms. Close responded that nobody cuts budgets without believing it harms morale in the office. Her staff was asked to do more work with less as they absorbed other people's positions. While the Court is an independent judiciary, they are still part of the City of Scottsdale. If Council believes that the City needs to reduce its budget, the Court is part of the process. She would examine the situation to make it more efficient. Budget cuts are hard on everyone, but every department is responsible for doing their part.

Vice Chair Alvarez inquired about the policies and procedures Ms. Close would want to change or implement if she became Presiding Judge. Ms. Close said that as a leader, it would be a mistake to change everything upon arrival. There is a lot about the City

Court that is working really well. As a prosecutor, she sees some things that can be improved, but until she has a chance to meet with staff and understand why they do things the way they do, she would not want to propose any specific changes. The judiciary needs to stand free from any influence, but they also have to understand that they are part of the City, and what they do impacts other people. Jail costs, for instance, are a huge issue. The Court controls those costs, but the Police Department pays that bill. If the program could be changed to allow cases to be resolved earlier, then the City would not necessarily have to spend money on pre-conviction incarcerations.

Ms. Close said the Domestic Violence Court should be handled by a judge who truly understands the differences in those types of cases. Judge Olcavage has been handling these cases very well, but she would explore whether the program needed to be expanded to two courtrooms, and whether other changes were required to handle the volume of those cases. The home detention program could also benefit from being handled in one courtroom, so that the same judge is seeing all of those violations and is making the same types of decisions.

Chair Rybarsyk asked whether Ms. Close's lack of judicial experience would detract from her ability to be an administrator in the court. Ms. Close said that she has been a good administrator for ten years. She has litigated from both sides, and understands how the court works and understands the law. The learning curve is not going to be significant, and would not detract from the administrative side at all.

**Judge Joseph Olcavage, Associate City Judge - City of Scottsdale**

***What do you see as the role of the Presiding Judge?***

Judge Olcavage responded that the Presiding Judge supervises and manages the court efficiently to ensure that people can get in and out in a reasonable manner. As a steward of the City they must try to keep budget costs as low as possible while still preserving Constitutional rights. The Presiding Judge must make sure that the Court is tapping into all the available funding sources. He drafted a technology and security enhancement fund, which Council approved. Now everyone who is found or pleads guilty is charged a fee to ensure the safety of the people who work at and use the court. The Presiding Judge has to understand what is going on in the Courtroom, and not micromanage. Employees with the proper education, training, experience, and resources should be allowed to do their job. If they need help, the Presiding Judge should provide it. On the other hand, he likes to meet with employees regularly to understand what is going on. Employees are experts in their fields. They are the best asset and should be involved in the decision-making process. An otherwise brilliant idea might actually set them back. He believes in rotating certain positions so that employees can get experience in more than one area. The Presiding Judge should give the employees the best opportunity to succeed.

***How can the cost of judicial administration be reduced? As a supervisor, have you had any experience in reducing costs and in creating a budget?***

Judge Olcavage stated that when he was the City Prosecutor he found that the diversion program was costing the City money. He instituted a \$100 court cost, and now the City no longer has to subsidize that program. The most intensive part of the Domestic Violence Court is the probation process. Changes were made to save personnel time associated with these probations. The Court reduced workload by dismissing pre-adjudicated cases that have seen no action in five years. The Prosecutor has the option

to respond to these dismissals. The employees are an excellent source of ideas for innovation.

***Have you ever thought about a decision on a case and wished you had handled it differently?***

Judge Olcavage said that trial judges have to make decisions in a split second. If later he determines that he made the wrong decision on a particular objection, he would correct it the next time such a situation presented itself.

***Describe a situation in which you made an unpopular decision that angered and offended others, and how you dealt with that?***

Judge Olcavage explained that when he had a private practice, he represented a defendant who was accused of shooting a dog when nobody else would. During the course of the trial, the courtroom was full of angry animal rights people who were hostile to him. When he was Assistant City Attorney, a neighborhood was outraged over proposed changes at a local bar. He urged them to calm down and find a solution to the problem. When he wrote an ordinance for the City Attorney's Office, there were all sorts of different views on it, and the situation was a real mess. Eventually he was able to patiently work through the matter and find a solution most people were happy with.

He recalled trying a DUI case in which Chair Rybarsyk appeared for the defendant. Judge Olcavage ruled against him and Chair Rybarsyk appealed the case. His decision was upheld by both Superior Court and the Court of Appeals.

Board Member Cohen inquired about Judge Olcavage's greatest strength applicable to Presiding Judge. Judge Olcavage responded that patience and innovation are his two best qualities. There is always room for improvement. He noted recent innovations in court scheduling, and in the order in which arraignments are handled. These procedures have helped streamline the process, and citizens often express gratitude for the time they saved.

***Do you foresee any conflicts with other judges or court personnel if you are appointed as Presiding Judge?***

Judge Olcavage said he saw no problems. Lawyers often have to switch between the roles of prosecutor and defense attorney, but they realize they have a job to do, which is to represent their client to the best of their ability. A Presiding Judge has to make sure that the Court is operating efficiently, and that the employees are provided with all the assets they need to do their job. He has always maintained an open door policy. The nice thing about Scottsdale is that the judges are all willing to help each other out.

***What policies, procedures, or programs would you like to see either implemented or changed in the court if you were the Presiding Judge, and how would you go about implementing them or changing them, and why?***

Judge Olcavage explained that since the Court is running smoothly right now, he likely would not change anything. He would first learn more about the situation before proposing any improvements.

**7. DETERMINE PRESIDING CITY JUDGE APPLICANTS TO MOVE FORWARD FOR INTERVIEWS WITH THE CITY COUNCIL**

Each Board Member ranked the candidates in their order of preference, and Terry Welker reviewed the combined results. Chair Rybarsyk noted near unanimous agreement on the top two candidates: Judge Olcavage and Judge Jejna. They have both been with Scottsdale for many years and are familiar with the Court. JAAB has to select at least three candidates to forward to Council. Judge Lamb, Nancy Sorensen, and Judge Eppich all ranked relatively close.

Board Member Scanlon said the Court needs a female judge and he supported Nancy Sorensen. Chair Rybarsyk noted that all the candidates would be eligible for consideration for the Associate Judge position, should Council appoint an internal candidate. Vice Chair Alvarez said he had a hard time deciding between Judge Lamb and Nancy Sorensen. He opted to rank Ms. Sorensen higher because she has more experience in a high-volume court like Scottsdale's. She presented herself well and gave good answers. Board Member Ehrlich felt she did not answer questions the Board asked, and did answer questions that were not asked.

The Board agreed that they would only submit three candidates. Board Member Weingarten felt that Judge Lamb appeared to be inarticulate, slow to respond, and unsure of himself. He questioned whether he would be able to work well in a fast-paced environment. Board Member Ehrlich doubted that would be the case at all. His references indicated that he was a fast worker and is promptest in finishing assignments. All of them said he was far and away the most responsive and responsible member of the committees he worked on.

Chair Rybarsyk noted that Board Member Weingarten gave Judge Lamb the lowest possible score, which skewed the results. The lawyers in Navajo County say he is the best judge there. His qualifications are very good. He said he ranked Judge Lamb just below Judge Eppich who shares similar credentials, but is a local judge with major city experience. Board Member Scanlon said his main concern with Judge Lamb is that the court he is familiar with is not as fast paced as Scottsdale's. Board Member Cohen disagreed, saying the pace would be similar. Part of the problem is that Scottsdale's Court is one division smaller than it should be, but he noted that smaller courts like Holbrook have fewer resources and fewer judges, which puts even greater pressure on those who are there. Their time management skills have to be very strong. He characterized Judge Lamb not as slow, but as deliberate, which is a sign of a thoughtful leader.

**CHAIR RYBARSYK MOVED TO FORWARD JUDGE JOSEPH OLCAVAGE, JUDGE OREST JEJNA, AND JUDGE JOHN LAMB TO CITY COUNCIL FOR INTERVIEWS. BOARD MEMBER EHRLICH SECONDED. THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0).**

**8. FUTURE AGENDA ITEMS**

Ms. Wegner indicated that staff would prepare a draft letter to City Council detailing the results of the meeting. Chair Rybarsyk noted that a letter is also being drafted regarding JAAB's recommendation to change to four-year reappointment terms.



Ms. Wegner noted that this would be Chair Rybarsyk's last meeting due to the completion of his second three year term on the Board mid-October. She thanked Mr. Rybarsyk for his service to the City of Scottsdale and its citizens.

Mr. Welker stated that the three recommended candidates would see Council in a special session on October 27. The final appointment would depend on the results of that meeting. If the Presiding Judge is an internal candidate, JAAB would meet again to discuss appointing someone to the newly vacated Associate Judge position. Otherwise JAAB would have little work to do in the short term.

## **ADJOURNMENT**

With no further business to discuss, being duly moved and seconded, the meeting of the Judicial Appointments Advisory Board adjourned at 3:26 p.m.

Respectfully submitted,  
Valerie Wegner  
HR Management Analyst

Reviewed by,  
Donald Alvarez  
JAAB Vice Chairperson